

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

DANA DiSTASI,

Plaintiff,

-against-

NAVIENT SOLUTIONS, INC.
f/k/a Sallie Mae, Inc.,

Defendant.

COMPLAINT 1:15-cv-038 (GTS/ATB)

NOW COMES Plaintiff, Dana DiStasi ("Plaintiff"), by and through her attorneys, Krohn & Moss, Ltd., for her Complaint against Defendant, Navient Solutions, Inc. f/k/a Sallie Mae, Inc. ("Defendant"), alleges as follows:

Nature of the Action

1. This action is brought by Plaintiff pursuant to the Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. § 227 *et seq.*

Parties

2. Plaintiff is a natural person residing in Milton, New York, Ulster County.

3. Defendant is a business entity with an office located at 2001 Edmund Halley Dr., Reston, Virginia 20190.

4. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives and insurers.

Jurisdiction and Venue

5. Jurisdiction of this court arises pursuant to 28 U.S.C. § 1331 and 47 U.S.C. § 227.

6. Venue is proper pursuant to 28 U.S.C. § 1331(b)(2) as the acts and transactions giving rise to this action occurred in this district as Plaintiff resides in this district and Defendant transacts business in this district.

Factual Allegations

7. In or before 2014, Defendant began placing telephone calls to (845) 594-40xx, Plaintiff's cellular telephone.

8. Upon information and good faith belief, based on the frequency, number, nature and character of these calls, Defendant used an automatic telephone dialing system or other equipment capable of storing and/or producing telephone numbers ("auto dialer") to call Plaintiff.

9. Defendant called Plaintiff regarding student loans.

10. These calls were for a non-emergency purpose.

11. On February 28, 2014, Plaintiff instructed Defendant to stop calling her cell phone.

12. Plaintiff revoked any consent, actual or implied, for Defendant to use an auto dialer to call her cell phone.

13. Defendant continued to use an auto dialer to call Plaintiff's cell phone.

14. Since March 7, 2014, Defendant used an auto dialer to call Plaintiff's cell phone at least three hundred forty-five (345) times.

15. Defendant intended to use an auto dialer to place these calls.

16. Defendant knowingly, willfully, and voluntarily used an auto dialer to place these calls.

17. Defendant did not have Plaintiff's express consent to use an auto dialer to place these calls.

CLAIM FOR RELIEF
Telephone Consumer Protection Act

18. Defendant's actions alleged *supra* constitute numerous negligent violations of the TCPA, entitling Plaintiff to an award of \$500.00 in statutory damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B).

19. Defendant's actions alleged *supra* constitute numerous and multiple knowing and/or willful violates of the TCPA, entitling Plaintiff to an award of \$1500.00 in statutory damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

WHEREFORE, Plaintiff prays that judgment be entered against Defendant for the following:

- (1) Statutory damages of \$500.00 for each and every negligent violation of the TCPA pursuant to 47 U.S.C. § (b)(3)(B);
- (2) Statutory damages of \$1500.00 for each and every knowing and/or willful violation of the TCPA pursuant to 47 U.S.C. § (b)(3)(b) and 47 U.S.C. § (b)(3)(C);
- (3) All court costs, witness fees and other fees incurred; and
- (4) Awarding such other and further relief as may be just, proper and equitable.

Dated: January 12, 2015

KROHN & MOSS, LTD.

/s/ Adam T. Hill

Adam T. Hill

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